

REMARKS

Summary of the Office Action

In the Office Action, claims 1-4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,087,034 to *Kikkawa et al.* ("*Kikkawa*").

Claims 1-4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,378,085 to *McVeigh*.

The drawings have been objected under 37 C.F.R. § 1.83(a) as allegedly not showing show each feature of the invention recited in the claims.

The specification is objected to for certain informalities.

Summary of the Response to the Office Action

Applicants have cancelled claim 4, without prejudice or disclaimer. Claim 3 has been amended to include the features of cancelled claim 4. Accordingly, claims 1-3 are presently pending.

Applicants have added new Fig. 13 to show the drive mechanism 30 recited in claim 1. No new matter has been introduced. Support for new drawing is found throughout Applicants' specification. The specification has been amended to correct for certain typographical and clerical errors.

Information Disclosure Statement

Applicants submitted an Information Disclosure Statement on July 12, 2006. Applicants thank the Examiner for acknowledging the Information Disclosure Statement by initialing the PTO 1449 form and returning a copy to Applicants.

Objection to the Drawings

To overcome the Office Action's objection of the drawings, Applicants concurrently file herewith a Submission of Replacement Drawings with fourteen (14) sheets of replacement drawings to substitute for the originally filed drawing sheets. Fig. 13 (sheet 14) is added to show a drive mechanism 30 and its subcomponents. Support for the new drawing is found at least at page 10, ¶ [0011] of the Applicants' specification as originally filed. No new matter has been introduced. Applicants respectfully request that the objection to the drawings be withdrawn.

All Claims Comply With 35 U.S.C. § 102(b)

Claims 1-4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Kikkawa*. Applicants respectfully traverse the rejection for at least the following reasons.

Applicants respectfully submit that the Office Action has not established that *Kikkawa* anticipates each and every feature of Applicants' claimed invention and that all rejections under 35 U.S.C. § 102(b) should be withdrawn. Independent claim 1 recites, in part, "a movable clincher being disposed so as to be opposed to a striking position of a staple and to be rotatable; and a rotatable clincher cam including a cam surface engageable with the movable clincher so as to rotate the movable clincher." Emphasis added. Independent claim 3 recites, in part, "wherein the staple legs penetrated through the binding sheets are guided into and between the movable cutter and fixed cutter, while the staple legs are engaged with the clincher pieces." *Kikkawa* fails to teach or suggest at least these features of independent claims 1 and 3.

The Office Action states that *Kikkawa* discloses all the claim elements of independent claims 1 and 3. However in claim 1, *Kikkawa* is not disposed so as to be opposed to a striking

position of a staple, and the movable clincher and the rotatable clincher are not engageable with each other since they are the same item in *Kikkawa*. In claim 3, Applicants submit the staples in *Kikkawa* are not “into and between the movable cutter and the fixed cutter, while the staple legs are engaged with the clincher pieces.” Emphasis added. Accordingly, *Kikkawa* fails to teach or suggest each and every feature of claims 1 and 3. Thus, the rejection of claims 1 and 3 should be withdrawn.

As pointed out in MPEP § 2131, a claim is anticipated by a prior art reference only if each and every element as set forth in the claim is found. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051 (Fed. Cir. 1987). Therefore, Applicants respectfully assert that the rejection under 35 U.S.C. § 102(b) should be withdrawn because *Kikkawa* does not teach or suggest each feature of independent claims 1 and 3.

Additionally, Applicants respectfully submit that dependent claim 2 is also allowable insofar as it recites the patentable combinations of features recited in claim 1, as well as reciting additional features that further distinguish over the applied prior art.

Claims 1-4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *McVeigh*. Applicants respectfully traverse the rejection for at least the following reasons.

Applicants respectfully submit that the Office Action has not established that *McVeigh* anticipates each and every feature of Applicants' claimed invention and that all rejections under 35 U.S.C. § 102(b) should be withdrawn. Independent claim 1 recites, in part, “the clincher cam being driven through a drive link operated by a drive mechanism for driving a stapler.” Newly amended independent claim 3 recites, in part, “a cutter cam engageable with the movable cutter

and capable of driving the movable cutter, wherein a clincher cam and the cutter cam are connected together as an integral body so that they can be rotated integrally with each other.” *McVeigh* fails to teach or suggest at least these features of claims 1 and 3.

The Office Action equates *McVeigh* with the claimed invention. In fact, *McVeigh* does not show “the clincher cam being driven through a drive link operated by a drive mechanism for driving a stapler,” as recited in claim 1. *McVeigh* does show a solenoid (SOL-3) driving an armature 58 to advance an undersurface 60 of element 55 against anvils 50, 51 to facilitate cutting and clinching of a staple. There appears to be no drive mechanism for driving a stapler that operates a drive link to cut and clinch a staple in *McVeigh*. SOL-3 of *McVeigh* does not drive a staple. Accordingly, *McVeigh* fails to teach or suggest each and every feature of claim 1. Thus, the rejection of claim 1 should be withdrawn.

With respect to newly amended independent claim 3, *McVeigh* does not disclose at least “a cutter cam engageable with the movable cutter and capable of driving the movable cutter, wherein a clincher cam and the cutter cam are connected together as an integral body so that they can be rotated integrally with each other.” The Office Action identifies both the clincher cam and cutter cam as element 55 and states they are integral. Cams may be considered integral if they rotate together as one while maintaining separate cam faces, but *McVeigh* shows only one alleged cam face 60 not two separate ones. Thus, there is only one cam shown in *McVeigh*, and *McVeigh* does not anticipate independent claim 3.

As pointed out in MPEP § 2131, a claim is anticipated by a prior art reference only if each and every element as set forth in the claim is found. *Verdegaal Bros. v. Union Oil Co. of*

California, 2 USPQ2d 1051 (Fed. Cir. 1987). Therefore, Applicants respectfully assert that the rejection under 35 U.S.C. § 102(b) should be withdrawn because *McVeigh* does not teach or suggest each feature of independent claims 1 and 3.

Additionally, Applicants respectfully submit that dependent claim 2 is also allowable insofar as it recites the patentable combinations of features recited in claim 1, as well as reciting additional features that further distinguish over the applied prior art.

CONCLUSION

In view of the foregoing, Applicants respectfully request reconsideration and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of the Response, the Examiner is invited to contact the Applicants' undersigned representative to expedite prosecution.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By: 

David E. Connor

Reg. No. 59,868

Dated: September 30, 2008

CUSTOMER NO. 009629

MORGAN, LEWIS & BOCKIUS LLP

1111 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

Tel: 202-739-3000

Fax: 202-739-3001